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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER CHEUNG, CALVIN K	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/567,642	Applicant(s) KAWAKAMI, TAKASHI	
	Examiner CALVIN K.S. CHEUNG	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/08/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement

1. This action is in response to the elected claims filed on 24 March 2009.
2. Claims 1-18 are pending.
3. Claims 12-14 are withdrawn.
4. Claims 1-11 and 15-18 are examined below.

Priority

5. Foreign priority according to PCT/JP2005/013407 dating 15 July 2004 is acknowledged.

Restrictions

6. Applicant's election without traverse of Invention I (Claims 1-11 and 15-18) in the reply filed on 24 March 2009 is acknowledged.

Claim Rejections - 35 USC § 112, Second Paragraph

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 1-11, 15-18 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Regarding Claim 1, on line 3 and 4 recite the limitation "a unit of a user" twice. One of ordinary skill in the art would not know the metes and bounds of this phrase, "a

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unit of a user”. It does not particularly point out the type of "unit" used to perform the function according to the claim. Based on this analysis and for this reason a rejection under 35 U.S.C. 112, Second Paragraph is proper. “The primary purpose of the definiteness requirement for claim language is to ensure that the scope of the claims is clear so that the public is informed on the boundaries of what constitutes infringement of the patent. (See *Indefiniteness Rejections under 35 U.S.C. 112, Second Paragraph Memorandum, signed September 2, 2008.*)

b. Regarding Claim 3, the final line within the claim recites “to the content”. The limitation is indefinite for the following reason: One of ordinary skill in the art would not clearly understand “the content to be transmitted from said radio transmitter section *to the content*”. Examiner takes the position transmitted content must be received by a receiver. For this reason and for purposes of applying prior art, Examiner takes the position the limitation stated above to mean “the content to be transmitted from said radio transmitter section *to the receiver*”.

c. Regarding Claim 9, on line recites the limitation as claim 1 on lines 4 and 6 and rejected in like manner.

d. Regarding Claims 10-11, based on claim 9 on line 7 recites the limitation “a first communication section for receiving”. In addition, on line 11 recites the limitation “a second section for transmitting”. Under this single apparatus, Examiner considers “a first communication section for receiving” to mean a receiver, and “a second communication section for transmitting” to mean a transmitter. However, the convention described within the claim body is not followed by the dependent claims. It becomes indefinite in

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claim 10, on line 2 “said second communication section receives” and on line 5 “said first communication section transmits” where the roles of the first and second sections are switched. Claim 11 also uses “said first communication section” and “said second communication section” as described in claim 10 and contains the same indefiniteness. Examiner takes the position, “a first communication section” is used for transmitting to mean “a transmitter”. Examiner also takes the position, “a second communication section” is used for receiving to mean “a receiver”. For this reason and for purposes of applying prior art, Examiner takes the position “a first communication section” is used for transmitting to mean “a transmitter”; and “a second communication section” is used for receiving to mean “a receiver”.

e. Regarding Claim 15, recites the same limitation as claim 1 on lines 5-6 and 7; and rejected in like manner.

f. Regarding Claim 16, recites the same limitation as claim 9 on lines 6 and 7-8; and rejected in like manner.

g. Regarding Claim 17, recites the same limitation as claim 1 on lines 4-5 and 6; and rejected in like manner.

h. Regarding Claim 18, recites the same limitation as claim 9 on lines 5 and 7; and rejected in like manner.

9. The Examiner finds that because the claims are indefinite under 35 U.S.C. §112, Second Paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO’s policy of trying to advance prosecution by

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providing art rejections even though these claim are indefinite, the claims are construed and the prior art is applied as much as practically possible.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-11, and 15-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mott et. al. (US 6170060 B1) (“Mott”) and further in view of Sugiyama et. al. (US 2002/0023121 A1) (“Sugiyama”).

12. Regarding Claim 1, Mott discloses a content reproduction apparatus (“apparatus”, Abstract) comprising:

- i. a group ID storage section for storing a group ID produced uniquely in a unit of a user (“device ID and/or group ID is embedded in the playback device”, Abstract) when said content reproduction apparatus (Playback Device **212**) is registered (C14, L15-22) in a unit (Client Computer System **214**) of a user into a management server (Library Server **260**);
- j. an ID recording section (**216** in FIG 2) for recording a content ID corresponding to the content reproduced by said reproduction execution section (software player **226**) and the group ID added to the content into an ID storage section (“device ID or a group ID is also embedded in a digital information file”, Abstract);

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- k. group ID added to the content (Abstract), group ID storage section (“group ID is embedded in the player device”, Abstract)
- l. a reproduction execution section (software player **226**) for reproducing the content (C5, L40-64);
- m. a data communication section for transmitting (**240** in FIG 4), where a content distribution server (Library Server **260**) which provides a download service (“downloaded”, C5, L17-18) of the content (C5, L40-64) and said content reproduction apparatus (Movie Playback Device **212**) are connected to each other directly/indirectly (Fig 4), the content ID and the group ID recorded in said ID storage section (**216** in FIG 2) to said content distribution server (Library Server **260**).
- n. Mott does not directly disclose:
- o. a radio transmitter section for transmitting a content stored in a content storage section to a different apparatus by radio communication;
- p. a radio receiver section for receiving a content transmitted from the different apparatus by radio communication;
- q. a reproduction permission/inhibition decision section for deciding, said radio receiver section, whether or not the content received by said radio receiver section can be reproduced; and
- r. received by said radio receiver section when said reproduction permission/inhibition decision section decides that the content can be reproduced.
- s. Sugiyama discloses:

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- t. a radio transmitter section for transmitting (FIG 3, Ele. 4) a content stored in a content storage section to a different apparatus by radio communication (FIG 1, ¶ 0065; and “Bluetooth”, ¶ 0073);
 - u. a radio receiver section for receiving (FIG 3, Ele. 5) a content transmitted from the different apparatus by radio communication (FIG 1, ¶ 0065; and “Bluetooth”, ¶ 0073);
 - v. a reproduction permission/inhibition decision section for deciding (FIG 8, Ele. S112), said radio receiver section (FIG 3, Ele. 5), whether or not the content received by said radio receiver section (FIG 3, Ele. 5) can be reproduced (¶ 0024); and
 - w. received by said radio receiver section (FIG 3, Ele. 5) when said reproduction permission/inhibition decision section decides that the content can be reproduced (FIG 8, Ele. S112). It would have been obvious by one of ordinary skill in the art at the time of the invention to modify the playback device of Mott by including the Bluetooth technology taught by Sugiyama. Since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.
13. Regarding Claim 2, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 1 above.
- x. Mott discloses:
 - y. said ID recording section (**216** in FIG 2), said data communication section (Network **240**), and said reproduction execution section (software player **226**).

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z. Mott does not directly disclose:

aa. said content reproduction apparatus is composed of a body section and a headphones section,

bb. said body section includes said radio transmitter section, and

cc. said headphones section includes said radio receiver section, said reproduction permission/inhibition decision section.

dd. Sugiyama discloses:

ee. said content reproduction apparatus (**100** in FIG 1; ¶ 0065) is composed of a body section (FIG 1, Ele. 140; ¶ 0065) and a headphones section (Fig 1, Ele. 120; ¶ 0065), and

ff. said body section (FIG 1, Ele. 140; ¶ 0065) includes said radio transmitter section (FIG 3, Ele. 4),

gg. said headphones section (Fig 1, Ele. 120; ¶ 0065) includes said radio receiver section (FIG 3, Ele. 5), said reproduction permission/inhibition decision section (FIG 8).

(See motivation and rationale to combine as discussed in claim 1 above.)

14. Regarding Claim 3, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 1 above.

hh. Mott does not directly disclose:

ii. a reproduction permission information setting section for applying reproduction permission information for permitting reproduction of the content to be transmitted from said radio transmitter section to the content.

jj. Sugiyama discloses:

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- kk. a reproduction permission information setting section (“Yes” in FIG 8, Ele. S112) for applying reproduction permission information for permitting reproduction of the content (FIG 8, Ele. S113) to be transmitted (FIG 1) from said radio transmitter section (FIG 3, Ele. 4) to the content (FIG 3, Ele. 5). (See motivation and rationale to combine as discussed in claim 1 above.)
15. Regarding Claim 4, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 3 above.
- ll. Mott does not directly disclose:
 - mm. said reproduction permission/inhibition decision section decides whether or not the content can be reproduced based on the reproduction permission information applied to the content received by said radio receiver section
 - nn. Sugiyama discloses:
 - oo. said reproduction permission/inhibition decision section (FIG 8, Ele. S112) decides whether or not the content can be reproduced (Fig 8, Ele. S112) based on the reproduction permission information applied to the content (“Term of validity” in FIG 10) received by said radio receiver section (FIG 3, Ele. 4). (See motivation and rationale to combine as discussed in claim 1 above.)
16. Regarding Claim 5, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 1 above.
- pp. Mott does not directly disclose:

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qq. a display control section for outputting, when said radio receiver section receives a content transmitted from the different apparatus by radio communication, that the content is received to a display apparatus.

rr. Sugiyama discloses:

ss. a display control section for outputting (**140** in FIG 1; ¶ 0065), when said radio receiver section (FIG 3, Ele. 5) receives a content transmitted from the different apparatus by radio communication (FIG 1), that the content is received to a display apparatus (¶ 0065). (See motivation and rationale to combine as discussed in claim 1 above.)

17. Regarding Claim 6, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 1 above.

tt. Mott discloses:

uu. said reproduction execution section (software player **226**) to interrupt reproduction of a content stored (C5, L40-64).

vv. Mott does not directly disclose:

ww. a reproduction control section for controlling, when said radio receiver section receives a content transmitted from the different apparatus by radio communication, in a storage medium provided in said content reproduction apparatus and reproduce the content transmitted from the different apparatus by radio communication.

xx. Sugiyama discloses:

yy. a reproduction control section for controlling (remote controller **210**), when said radio receiver section (FIG 3, Ele. 4) receives a content transmitted from the different

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apparatus by radio communication (Fig 1; and ¶ 0065), in a storage medium (“DVD”, ¶ 0065) provided in said content reproduction apparatus (**100** in FIG 1) and reproduce the content transmitted from the different apparatus by radio communication (FIG 1). (See motivation and rationale to combine as discussed in claim 1 above.)

18. Regarding Claim 7, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 6 above.

zz. Mott does not directly disclose:

aaa. said reproduction control section controls, when said radio receiver section receives a content transmitted from the different apparatus by radio communication and reliability information included in the content has a value higher than a predetermined value, said reproduction control section controls to interrupt the reproduction of the content stored in the storage medium provided in said content reproduction apparatus and reproduce the content transmitted from the different apparatus by radio communication.

bbb. Sugiyama discloses:

ccc. said reproduction control section controls (remote controller **210**), when said radio receiver section (FIG 3, Ele. 4) receives a content transmitted from the different apparatus by radio communication (FIG 1; and ¶ 0024) and reliability information included in the content has a value higher than a predetermined value (FIG 16), said reproduction control section controls (remote controller **210**) to interrupt the reproduction of the content stored in the storage medium (“DVD”, ¶ 0065) provided in said content reproduction apparatus (**100** in Fig 1) and reproduce the content transmitted from the

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different apparatus by radio communication (FIG 1). (See motivation and rationale to combine as discussed in claim 1 above.)

19. Regarding Claim 8, Mott / Sugiyama combination discloses the content reproduction apparatus according to claim 6 above.

ddd. Mott discloses:

eee. the group ID included in the content (“group ID is also embedded in a digital information file”, Abstract), and a server (Library Server **260**) providing the download service (“downloaded”, C5, L17-18).

fff. Mott does not directly disclose:

ggg. said reproduction control section controls, when said radio receiver section receives a content transmitted from the different apparatus by radio communication and the group ID provided from a server having a high degree of reliability coincide with each other, said reproduction control section controls to interrupt the reproduction of the content stored in the storage medium provided in said content reproduction apparatus and reproduce the content transmitted from the different apparatus by radio communication.

hhh. Sugiyama discloses:

iii. said reproduction control section controls (remote controller **210**), when said radio receiver section (FIG 3, Ele. 4) receives a content transmitted from the different apparatus by radio communication (FIG 1; and ¶ 0024) and the group ID (“Group ID” in FIG 19) provided from a server (FIG 26, Ele. 1202) having a high degree of reliability coincide with each other (FIG 6 and 19), said reproduction control section controls (remote controller **210**) to interrupt the reproduction of the content stored in the storage

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medium (“DVD”, ¶ 0065) provided in said content reproduction apparatus (**100** in FIG 1) and reproduce the content transmitted from the different apparatus by radio communication (FIG 1). (See motivation and rationale to combine as discussed in claim 1 above.)

20. Regarding Claim 9, Mott discloses a content processing apparatus (“apparatus”, Abstract), comprising:

- jjj. a content reproduction apparatus (Playback Device **212**) which stores a group ID produced uniquely in a unit of a user (“device ID and/or group ID is embedded in the playback device”, Abstract) when said content processing apparatus (Client Computer System **214**) is registered (C14, L15-22) in a unit (Client Computer System **214**) of a user into a management server (Library Server **260**);
- kkk. a content ID (**216** in FIG 2) and the group ID (**225** in FIG 2) stored in said content reproduction apparatus (Playback Device **212**);
- lll. the content ID (**216** in FIG 2) and the group ID (**225** in FIG 2) to a content distribution server (Library Server **260**) which provides a download service (“downloaded”, C5, L17-18) of a content (C5, L40-64);
- mmm. a content storage section (**241** in FIG 2) for storing a content (C5, L40-64) corresponding to the content ID (**216** in FIG 2) transmitted from said content distribution server (Library Server **260**)
- nnn. Mott does not directly disclose:
- ooo. a connection decision section for deciding connection;

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ppp. a first communication section for receiving, when the connection is decided by said connection decision section;

qqq. Sugiyama discloses:

rrr. a connection decision section (“Bluetooth”, ¶ 0237) for deciding connection (FIG 7-8);

sss. a first communication section for receiving (FIG 3, Ele. 5), when the connection is decided (Fig 8, Ele. S112) by said connection decision section (“Bluetooth”, ¶ 0237);

ttt. a second communication section for transmitting (FIG 3, Ele. 4);

uuu. received through said second communication section (FIG 3, Ele. 5);

vvv. the contents stored in said content storage section (FIG 1) being transmitted to said content reproduction apparatus (**100** in FIG 1) through said first communication section (FIG 3, Ele. 5). (See motivation and rationale to combine as discussed in claim 1 above.)

21. Regarding Claim 10, Mott / Sugiyama combination discloses the content processing apparatus according to claim 9 above.

www. Mott discloses:

xxx. said content distribution server (Library Server **260**).

yyy. Mott does not directly disclose:

zzz. said second communication section receives reliability information corresponding to the group ID,

aaaa. said first communication section transmits the reliability information received by said second communication section to said content reproduction apparatus.

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bbbb. Sugiyama discloses:

cccc. said second communication section receives (FIG 3, Ele. 5) reliability information (“public key” in FIG 19. NOTE: Public key cryptography to ensure the information is trusted.) corresponding to the group ID (“Group ID” in FIG 19),

dddd. said first communication section transmits (FIG 3, Ele. 4) the reliability information (“public key” in FIG 19) received by said second communication section (FIG 3, Ele. 5) to said content reproduction apparatus (**100** in FIG 1). (See motivation and rationale to combine as discussed in claim 1 above.)

22. Regarding Claim 11, Mott / Sugiyama combination discloses the content processing apparatus according to claim 9 above.

eeee. Mott discloses:

ffff. said content distribution server (Library Server **260**).

gggg. Mott does not directly disclose:

hhhh. said second communication section receives a group ID having a high degree of reliability, and

iiii. said first communication section transmits the received group ID having a high degree of reliability to said content reproduction apparatus.

jjjj. Sugiyama discloses:

kkkk. said second communication section receives (FIG 3, Ele. 5) a group ID (“Group ID” in FIG 19) having a high degree of reliability (“public key” in FIG 19), and

llll. said first communication section transmits (FIG 3, Ele. 4) the received group ID (“Group ID” in FIG 19) having a high degree of reliability (“Public key” in FIG 6) to said

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content reproduction apparatus (FIG 1 and FIG 6). (See motivation and rationale to combine as discussed in claim 1 above.)

- 23. Claim 15 repeats the subject matter of claim 1 above and rejected in like manner.
- 24. Claim 16 repeats the subject matter of claim 9 above and rejected in like manner.
- 25. Claim 17 repeats the subject matter of claim 1 above and rejected in like manner.
- 26. Claim 18 repeats the subject matter of claim 9 above and rejected in like manner.

Conclusion

27. The Examiner has conveniently mapped portions of the prior art references to assist the Applicant in locating subject matter relevant to their claimed invention, according to claim language. The prior art portions cited are not limitations to subject matter used. Prior art references are referred to in their entirety. Therefore, all prior art references cited in this action and recorded on form, PTO-892, are referred in full by the Examiner.

28. The Examiner highly recommends making amendments to address §112, Second Paragraph issues. In addition, amending the claim body with the particular novelty/novelty of the invention being claimed. These efforts will further advance prosecution of this application.

29. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to CALVIN K.S. CHEUNG whose telephone number is (571) 270-7041. The Examiner can normally be reached on Monday - Friday, 8:00a.m. - 5:00p.m., EST.

30. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CALVIN K.S. CHEUNG/

Examiner, Art Unit 3621

6 April 2009

/ANDREW J. FISCHER/

Supervisory Patent Examiner, Art Unit 3621